

In order to qualify for the manufacturing machinery and equipment exemption from sales tax, the machinery or equipment must be used in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. (This is a GIL.)

October 30, 2006

Dear Xxxxx:

This letter is in response to your letter received in Legal Services on August 2, 2006, in which you request information. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at www.ILTAX.com to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am asking for a private letter ruling to determine if my equipment at COMPANY is Machinery Tax Exempt. My company has three processes that are used to make our products.

One. Completely disassemble vintage automobiles, remanufacture or replace required components, soda or sand blast all components, reassemble all components and paint the final assembly (vintage automobile).

Two. Manufacture (build) race cars from steel tubing, sheet metal, etc. or build race cars starting with an existing vehicle by disassembling it and fabricating roll cages and suspension components, remanufacturing (rebuilding engines) etc. and reassembling the components into a race car.

Three. Manufacture small component products for sale.

At this time, these processes require approximately \$30,000 worth of equipment that is directly related to making our products.

COMPANY is a new company and have [sic] a 10,000 square foot facility located in the LOCATION in the city of CITY, IL. We are an S corporation and in the County E zone area.

Please review the above information and if you need further clarification on any part of our business, please let me know. Thank you.

DEPARTMENT'S RESPONSE

The Retailers' Occupation Tax does not apply to sales of machinery and equipment used primarily (over 50%) in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. See 86 Ill. Adm. Code 130.330. When determining whether a piece of equipment qualifies for the manufacturing machinery and equipment exemption, the requirements of 86 Ill. Adm. Code 130.330 must be met.

As you can see from the regulation at subsection 130.330(c)(3), hand tools do not qualify for the exemption afforded manufacturing machinery and equipment. However, pneumatic hand tools or electric powered hand tools used primarily in manufacturing or assembling qualify for the exemption.

Please note that in order to qualify for the exemption, the machinery or equipment must be used in the manufacturing or assembling of tangible personal property for wholesale or retail sale or lease. Machinery or equipment that is used in the disassembly, assembly or repair of an automobile that is already owned by the customer does not generally qualify as manufacturing or assembling of tangible personal property for wholesale or retail sale or lease.

Effective January 1, 1995 through June 30, 2003, and beginning again September 1, 2004, a manufacturer may earn a credit when purchasing exempt manufacturing machinery and equipment. The amount of credit is limited to a percentage of the 6.25% State rate of tax that would have been incurred on the purchase of exempt manufacturing machinery and equipment. See 86 Ill. Adm. Code 130.331.

If you require additional information, please visit our website at www.ILTAX.com or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Martha P. Mote
Associate Counsel

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